P. 83-99

G. R. S. IX-5]

Previous references.

(1897-98)

~~191~~ .

(L.R.)

File No. 73-97

Serial Nos. 1-14.

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-14.

In ~~Part~~ B for September 1907

SUBJECT.

Claim of Venkataraya s/o Ramanand Das of Margadarshak, Bagepalli Th.

W D 1250—GPB—30,000 28-1-19

Before the Government of Mysore.

3

Appeal No. of 1899-1900

Appellants Vs. Respondents

(1) B. Venkatiga
(2) Thimma
(3) Narasiga

(1) Venkatanarasa Reddi
(2) Subba Reddi

Subject :- Claim, as Inâm service Inam (Jalavari Inam) to 27 tamarind trees standing on S. No. 124 of Nargunakunte, Bagepalli Taluk.

Secs 221 & 222 } L. R. Code

Posted for hearing on 21st March 1900 } Submitted to Sr. Commissioner by 19/3/00 Sd. B.N.C.E.D. 21/3/00 24/3/00.

13253

Seen 20.3.1900

668

Reported for hearing on 25th October, 1900

Referred when cases in detail and explanation submitted & note made of reference with the ques. for decision regarding jurisdiction. Sd. 26.X.00

Sd. 29/10/1900

Central Jail Press, Bangalore,—7-7-99.—302.

Office note

Appeal No 1 of 1899-00

In this case, the plaintiffs brought a suit for possession of 27 Lamarind trees & for profits out of their produce for 3 years and alleged that the trees formed part of the patch encroached by the plaintiffs

The Sub Dn Off allowed the claim & this decision has been affirmed by the Dy Comm

(2) Apart from the merits, the question of jurisdiction deserves some notice

Before the suit was brought in the Sub Dn Off's Court, a suit had been brought

in the local munsiff's Court and had been allowed by him. on appeal, the Ch Court (Messrs Plumer & Ramachandra Iyer) dismissed the Suit for want of jurisdiction in the civil courts to entertain the Suit. They observed " We have repeatedly ~~held~~ held that the civil courts have no jurisdiction in such cases (ie Suits to establish rights & the emoluments attached to their offices). See the Full Bench judgment of this Court in Appeal Suits No 110 & 115 of 1884 "

(3) The above decision was passed on 22/7/89

when the L R Code was
in force. In an
exactly similar[x] case,
brought by one Krishnappa
Naidu of Bangalore,
the Mysore entertained
the Suit & in appeal
the Ch Court (Mers J J.
Best & Meenakshisunda)
disposed of the case on
the merits without
going into the question
of Jurisdiction

It is thus evident that
the question is not free
from doubt and that
cases of the same nature
are sometimes disposed
of by civil courts &
sometimes by rev Courts

(4) In a similar case

[x] The petn in Krishnappa's
case enclosed & marked

which came up in
appeal before you
in Sept^r 1899, the
Sec^y Committee considered
that the rev^e Courts
had no jurisdiction in
such cases & the case
was sent to the Dewan
for final orders

~~H. 14/2/00~~

A reference may perhaps
be made to the Ch Court-
under Sec^n 226 of the
C.P. Code in order
to prevent clashing
between the two jurisdictions

H. 19/2/00

The case was heard on 26.3.00
by Messrs F.C.J. Skrimshire Officiating
and V. P. Madhavarao. It was then
ordered that a reference should be

made as to the Survey Supt.

as to whether the Tamarind Tree

in question should be taken into

consideration in fixing the Kotigi

In reply the Survey Supt

in his letter dt. 7.3.26.7.26

states that they were not taken

into ~~consideration~~ account in

fixing the Kotigi.

The case was again

heard by Messrs P. R. Krishna

Iyer and P. Sadhasivayya

on 26.10.26 when it was

ordered that a reference should

be made to the Chief Court

on the question of jurisdiction.

The Chief Court have

given their opinion unanimously

that the civil courts are not debarred from entertaining suits on such claims. They do not say anything as to whether such cases are, or not, cognizable in the Revenue Courts.

Ohr

Before the Government of Mysore.

Appeal No. of 1899-1900

Appellants	Vs.	Respondents
(1) B. Venkatiga (2) Thimmia (3) Narasiga		(1) Venkatanarasareddi (2) Subbareddi

Subject:— Claim to 27 tamarind trees standing on S. No. 2 of Nagamangala, Bagepalli Sub Division and to the profits of the produce of the trees for 3 years.

Sec 21 } L R Code
222

Posted for hearing on 26th March 1900

26-3-00.

Both parties served. 2nd appellant dead

Enquire as to whether the tamarind trees were taken out Cons^n in fixing the assessment. To be reposted after receipt of the enquiry from Sub. Dhan

Draft put up
B Lon
27/3/00

Supt 20/3/00

Central Jail Press, Bangalore.—7-7-99.—802.

26/10/00

Applts & Respts present

Reference to be made to the Ch Court under Secn 226 L.R. Code regarding the question of Jurisdiction

26/10/00

Case reported for hearing on.

3-6-01.

Notice served

Both parties present

Adjourned to 17-6-01.

Applts

Present & informed of the order of adjt. Did not sign as they were unable to do it

Respts

3/6/01

Does the result follow that "the case should be struck off"? The Chief Court was not asked whether the Revenue Courts had no jurisdiction - they have not disputed the opinion that the Civil Courts alone have jurisdiction to the exclusion of the Revenue Courts - on what ground then are they asked to strike off the case? 2. Does "striking off" mean the removal of the decision of the Sub Div Officer and Dy Comr? If so on what ground is such removal to be based? Unless the Revenue Courts have jurisdiction or they have not - if they have, the decision cannot be appealed against ~~I am afraid we set~~ aside & if they have not

on the merits of the
case. The fact that
two Chapters of Courts
have concurrent
jurisdiction, does
not debar one Court
from entertaining &
disposing of such suits.
When the same
suit is brought in the
other Court it would be
for it to decide whether
the matter is not res
judicata having
already formed the
subject of adjudication
by a Competent Court.
If in this case the (this)
Court had been asked
to see that the case
was not entered twice
on the Register
Courts by they had
answered the question
in the affirmative I should
have had no hesitation
in directing that
that the second be
struck off the Register
of the lower Court quashed
as irregular. Such
powers not being the

3/

case I have considerable difficulty in agreeing to the course suggested by the Appellant's Counsel concerned in the 1st Q. The Question seems to be one of sufficient importance & worthy of it being further considered & discussed at a hearing. I may not the case be ~~[illegible]~~ accordingly on the cause list. Please submit for consideration

24/4/07

KdV 2.

Put up previous cases where a similar course was adopted.

27/4/07.

Put before the 2nd Court.

The suggestion is to strike off the case list based upon the precedents contained in Appeal Nos 83 of 1877-78. (Vide order Nos 30 & 284)

It does not appear that in the present case the

former case, the Revenue Courts are debarred from hearing such suits.

Lus

29/4/07

The two cases are not parallel —

Let Notice be given. There must be a full meeting to hear matter — Case suggested by the Revenue Courts might not be the Civil Courts here — Civil Courts would have, since it was not a Revenue matter, to ascertain the facts — & would have to refer the Civil Courts to a decision of a Revenue Court — The Civil Courts would then have to decide the case on the facts as found by the Revenue Courts — Election Petitions are heard by the Civil Courts — Mr Justice Channell or Mr Justice Kennedy would be the proper Judge to hear the case —

C. Fitzpatrick
29/4/07

Parties present

Read the application & heard Mr Asquith thereon. Mr Asquith addressed the Court in support of the application.

Lord Cozens-Hardy The Revenue Courts have jurisdiction in this case. It depends on the facts the findings have all along been in favour of the Civil Courts. Costs reserved in the findings & liberty to appeal

Mr Justice Kennedy
18/6/1907

C. Fitzpatrick
18/6/07

Leave to 1st Nov.

Lus
1/5/07.

Ps. Ten days for hearing for the next meeting 13/5 [illegible]

P-4-5-07
Hearing
403

Adj'd to 18th

17/6/07

18/6/07

Thimma v Venkatya (appltt) present

Both the Respts present

Appeal dismissed

18/6/07

Note with reference to 2nd
dated 26-4-07
Councils minute in Appeal
No 1 of 1899-1900.

—x—

The question referred
to the Chief Court for opinion
was whether the Revenue Courts
only had jurisdiction in such
cases to the exclusion of the
Civil courts or otherwise. In
reply the Chief Court concurring
say that the civil courts are
not debarred from entertaining
suits on
such claims. They do not say
anything as to whether such
cases are, or are not, cognizable in
the Revenue Courts.

Now Examiner

In a similar case
Appeal no. 83 of 97-98,
(Lunagiya & Gopaleja),
the Chief Court were asked
to state:- 1. Whether the suit
in that case was cognizable by
the Revenue Courts? or in other
words

words, whether the suit was within the provisions of Section 221(a) of the Land Revenue Code and more especially of the clause relating to "claims in respect of any injury caused by exclusion from hereditary office or service?" (2) If the above question is answered in the affirmative, is the Deft entitled to retain the suit land under Rule 28 of the Potigi Rules? and (3) Is the suit barred ~~by limitation~~ by reason of the Defts' possession of the land for more than 12 years and apart from the operations of Rule 28 of the Potigi Rules?

The Chief Court held that question (1) should be answered in the ~~affirmative~~ negative and that the suit did not fall under Section 221(a) of the Land Rev. Code;

that it is not excluded from the jurisdiction of the civil courts and that the findings on the 2nd & 3rd questions were therefore unnecessary.

As a result of the above opinion the appeal was dismissed on the ground that the proceedings of the 2 Revenue Courts below had become void and it was ordered that it was open to the parties to seek redress by means of a civil suit

Not to be Reported

The decision in this case is herewith put up for reference.

Submitted

Ebrahim
29/4/01.

Statement

Appeal No. of 1893 -

Appellant — Respondents

R. Venkatiga — Venkatarama
& 2 Nos — Kesava Rau
(Defendants) — (Plaintiff

This is an appeal against the order of the Dy Commr of Kolar in Revenue appeals No 3 of 1892-93 ~~confirming~~ confirming the decree of the Asst Dy Collr of Bicklalapur that the defts should give back to the Plff 27 Cunnaries trees standing on part of Sy No 24 Chiraj in which is a Devasthana Hanumantha attached to Kolar office, Maragunkunte village, Kaiji Taluk, and that they should be to the Plff a sum of Rs 67 -

the value of 3 years' produce of the trees.

The facts of the case are as follows:

The Plffs represent the Patel and the Defts the Talati of the village of Haraganahalli. The former claim as their service Inam 27 out of the 29 tamarind trees standing on a part of S. No. 124 (Majji No. 11) of the above village which is the Defts' service Inam land.

In 1888 the Plffs filed a suit in the court of the Munsiff of Chikkanayakan Kanive claim to and to recover possession of the tamarind trees with the value of the produce thereof for 2 years, ga & damages, urging that the so formed their service Inam the same that they had been in their possession and enjoyment for 60 or 70 years and that after the Survey Settlement

which

which took place 2 years before, the
defts. wrongfully carried away the
fruits of the tree. The defts.
denied the claim and said that
the tree in question were in their
possession and enjoyment from
time immemorial. The Plaintiff
favour of the
gave evidence in Plaintiff's ~~favour~~
But on appeal the Chief Court
(Present: G.J. Plinder and A. Rama-
chandra Iyer, J.J.) dismissed the
suit in July 1889 for want of jurisdiction for
such suit
the civil courts entertain the case
and
The observed:- "We have repeatedly
held that the Civil Courts have
no jurisdiction in such cases.
See the Full Bench judgment of
this Court in appeal suits Nos
110 and 153 of 1885."

The Plaintiffs then ap-
on petitioning the Govt.
the sub-division officer till a

in May 1895
last they were told to establish
their claim in a Regular Revenue
Suit.

In August 1896 the Pffs
instituted a suit in the court of the
Sub-Division officer of Chirakaiyur
for the recovery of the ~~property~~
trees in question together with the
value of their produce for 3 years
(excluding the period barred by
limitation) ~~Suit~~ urging the same grounds
which they did before the Munsiff.
The Sub-Dy Officer allowed the
claim and gave a decree in the favour
Pffs and on Defts' appeal the
Dy Comnr confirmed it. Hence is
this 2nd appeal to favr by the Defts.

The appeal was heard
the Council on 26. 10. 97.
the course of the hearing, it
was ~~was~~ brought to notice

that ~~it~~ a similar suit ~~was instituted~~ by

the Maharaja of Travancore

was entertained by

the Principal Bench of Bangalore

~~pointed out~~ and as pointed

No. 120 of 1898-99, the Chief

Court (Messrs J. W. Best and

C. Sreenivasaya, J. J.) disposed

of the case on the merits without

going into the question of juris-

diction as they did in the present

case. Thus as there having been

two divergent

~~a different~~ decisions of the

Chief Court it was resolved

that a reference be made to the

~~referring~~

~~Chief Court as the question of~~

~~regarding the jurisdiction of the~~

regarding jurisdiction: as to

only

whether the Res Court had

in such cases

jurisdiction to the exclusion

of the civil Courts

otherwise

13/11/00.

for the decision of the question

Mr.

8-1-01

Subject to the ? Committee

13/11/00.

Adjourn.
13.41.00.

LR 73-97-1

Submitted

1898

No. 2166

Name of Petitioner Venkatiya + 2 others

Village Managundakunte

Taluk Bagepalli

District Kolar

Date of Arzi 21-2-98

Date of Receipt 23-2-98

Date of Disposal

No. of Enclosure 2 + 2 stamps to Rs.

Appl requests the order of the Asst Comr, Kolar dated 28.1.97 confirming the decision of the Sub Ch. Officer, rejecting the claims of the petrs to certain tamarind trees standing on S. No 124, Managundakunte village.

Stamps as per Sch.

Petrs have also produced stamps to the value of Rs two for process fees (which will have to be returned)

28/2/98

Direct the petrs to produce the Copy of the Asst Comr's Judgment & decree: Return the stamps for process fees.

4/3/98

Asst Comr's Court Kolar

4/3/98

ABSTRACT

Appeal against the Judgment of the Asst Comr, Kolar District, in Re appeal No 3 of 1896-97 confirming the decision of the Sub Ch Officer, Chikballapur, in the matter of some tamarind trees standing on the Sarkar Inam land S. No 124 attached to Managundakunte village.

Venkatiya
Timma
Narasiya
[Dept of the Sub Ch Officer Court]
(1) Venkata-narasa Reddy
(2) Subba Reddy

The circumstances of the appeal are :—

The

The respondts sued to recover possession and Rs 90/= the value of the produce of 27 tamarind trees standing on Survey No. 124 attached to the Narayanakatte village in the Bagepalli Tk.

Taken as seven from land of the appellants.

It was ordered and decreed by the subordinate officer, Chikballapur, in Rev. Original Suit No. 8 of 1896-97 that the defendants do give back the trees described in the plaint to the plaintiffs, and pay up a sum of Rs 60/= as value of 3 years' produce with Court costs. Against this order the appellants appealed to the Court of the Collector where the orig. order also was confirmed on the grounds that the Siddhanti-chitta clearly showed that the tamarind trees on the Talavar inam in dispute formed the Reddi inam; that the entries in the accounts were genuine and correct in spite of the argument of the Appellants' leader to the contrary; that Siddhanti Chitta was the only available record in all talukas; that an entry in 'Gidapatrika' that at the time of Survey prepared showed that the tamarind trees were enjoyed by the patels; that the talavar appeared to have been induced to set up an unjustifiable claim to the trees after the Survey settlt by the belief that under that settlement

respdts (1)
appellts (2)

settlement free from all with the land, and that right existing at the time could be extinguished; that the oral evidence adduced by the Apte could not be given any credit to; that the award made by the Subordinate Officer on account of mesne profits was fair and not open to objection.

Against the foregoing decision the Apte now appeal to this Court and contend:—

On a previous occasion i.e. 7 or 8 years ago, when the right to the said trees was likewise disputed, it was decided in this Court that the 1st respdt Venkatanarasa Naidu had no claim to the trees, but that, however, the Civil Courts had no right to deal in the matter. The 1st respdt did then sue the Apte in the Court of the Subordinate Officer who, by means of arbitration settled that the appellants should pay some money to the 1st respdt by way of Inaam. The Appellants

and

and their hisedars did not consent to this settlement, it was cancelled ~~on both sides~~.

Again the case was formally opened in the same court when the Sub-Divn. Officer, relying more on his previous informal settlement, ~~or~~ Siddhanti-Chitta, and Gidapatrika, than on the strength of the evidence adduced by the appellants passed the order already mentioned against them. The Dy. Commr. also concurred with the Sub. Div. Officer, keeping much faith in the correctness of the Accounts. Now, the Siddhanti-Chitta so much relied upon is interpolated at the end by the Shanbhog and the patel. Patel's hak in the matter is not an established one. Law Courts have rejected the evidence of the said chitta as the entries therein made ~~are~~ have been according to the whims of the villagers. So also is it the case with the Gida Patrika. The 1st Respondent has nothing in his favour either in the Inam or in the Survey Settlement, nor does he hold any documents written and given

to him by the appellants' ancestors. In fact they (24/11/98) have been laying up the land tax and enjoying the produce of the tamarind trees from immemorial antiquity. The Govt, they hear, have ruled in many instances that trees so standing on Service Inams shd belong, conformably to Survey Rules, to the Zamindar, despite any long enjoyment which one might have of such trees.

There are papers in the file which favour the appltˢ.

* decisions of Courts re-

There has been some delay in obtaining the copy of the instrument in the Dist. hence this delay in bringing this appeal.

They pray that their luck to the trees may be established and their loss suffered up to date made good.

J.C. 26/2/98

Inst.
Instrument - copy -
Petn to Govt &c. + reminder
receipts & Cert.
(4) respon. Statements for summonses.

MYSORE DEWAN'S OFFICE
PETITION DEPARTMENT
REG'D. NO. 2160/12
DATE 23-2-98

ਦੀ ਦੇਖਭਾਲ ਦੀ ਜ਼ਿੰਮੇਵਾਰੀ ਹੈ। ਇਸ ਲਈ ਉਹ ਉਨ੍ਹਾਂ ਦੀ ਦੇਖਭਾਲ ਕਰਦੇ ਹਨ ਅਤੇ ਉਨ੍ਹਾਂ ਨੂੰ ਖੁਸ਼ ਰੱਖਣ ਦੀ ਕੋਸ਼ਿਸ਼ ਕਰਦੇ ਹਨ।

ਇਸ ਤੋਂ ਇਲਾਵਾ ਉਹ ਆਪਣੇ ਬੱਚਿਆਂ ਨੂੰ ਚੰਗੇ ਸੰਸਕਾਰ ਦੇਣ ਦੀ ਕੋਸ਼ਿਸ਼ ਕਰਦੇ ਹਨ। ਉਹ ਉਨ੍ਹਾਂ ਨੂੰ ਸਿਖਾਉਂਦੇ ਹਨ ਕਿ ਉਹ ਆਪਣੇ ਬਜ਼ੁਰਗਾਂ ਦਾ ਆਦਰ ਕਰਨ ਅਤੇ ਉਨ੍ਹਾਂ ਦੀ ਸੇਵਾ ਕਰਨ। ਉਹ ਉਨ੍ਹਾਂ ਨੂੰ ਇਹ ਵੀ ਸਿਖਾਉਂਦੇ ਹਨ ਕਿ ਉਹ ਆਪਣੇ ਭੈਣ-ਭਰਾਵਾਂ ਨਾਲ ਪਿਆਰ ਅਤੇ ਸਹਿਯੋਗ ਨਾਲ ਰਹਿਣ।

ਇਸ ਤੋਂ ਇਲਾਵਾ ਉਹ ਆਪਣੇ ਬੱਚਿਆਂ ਨੂੰ ਚੰਗੇ ਸੰਸਕਾਰ ਦੇਣ ਦੀ ਕੋਸ਼ਿਸ਼ ਕਰਦੇ ਹਨ। ਉਹ ਉਨ੍ਹਾਂ ਨੂੰ ਸਿਖਾਉਂਦੇ ਹਨ ਕਿ ਉਹ ਆਪਣੇ ਬਜ਼ੁਰਗਾਂ ਦਾ ਆਦਰ ਕਰਨ ਅਤੇ ਉਨ੍ਹਾਂ ਦੀ ਸੇਵਾ ਕਰਨ। ਉਹ ਉਨ੍ਹਾਂ ਨੂੰ ਇਹ ਵੀ ਸਿਖਾਉਂਦੇ ਹਨ ਕਿ ਉਹ ਆਪਣੇ ਭੈਣ-ਭਰਾਵਾਂ ਨਾਲ ਪਿਆਰ ਅਤੇ ਸਹਿਯੋਗ ਨਾਲ ਰਹਿਣ।

ਇਸ ਤੋਂ ਇਲਾਵਾ ਉਹ ਆਪਣੇ ਬੱਚਿਆਂ ਨੂੰ ਚੰਗੇ ਸੰਸਕਾਰ ਦੇਣ ਦੀ ਕੋਸ਼ਿਸ਼ ਕਰਦੇ ਹਨ। ਉਹ ਉਨ੍ਹਾਂ ਨੂੰ ਸਿਖਾਉਂਦੇ ਹਨ ਕਿ ਉਹ ਆਪਣੇ ਬਜ਼ੁਰਗਾਂ ਦਾ ਆਦਰ ਕਰਨ ਅਤੇ ਉਨ੍ਹਾਂ ਦੀ ਸੇਵਾ ਕਰਨ। ਉਹ ਉਨ੍ਹਾਂ ਨੂੰ ਇਹ ਵੀ ਸਿਖਾਉਂਦੇ ਹਨ ਕਿ ਉਹ ਆਪਣੇ ਭੈਣ-ਭਰਾਵਾਂ ਨਾਲ ਪਿਆਰ ਅਤੇ ਸਹਿਯੋਗ ਨਾਲ ਰਹਿਣ।

ਇਸ ਤੋਂ ਇਲਾਵਾ ਉਹ ਆਪਣੇ ਬੱਚਿਆਂ ਨੂੰ ਚੰਗੇ ਸੰਸਕਾਰ ਦੇਣ ਦੀ ਕੋਸ਼ਿਸ਼ ਕਰਦੇ ਹਨ। ਉਹ ਉਨ੍ਹਾਂ ਨੂੰ ਸਿਖਾਉਂਦੇ ਹਨ ਕਿ ਉਹ ਆਪਣੇ ਬਜ਼ੁਰਗਾਂ ਦਾ ਆਦਰ ਕਰਨ ਅਤੇ ਉਨ੍ਹਾਂ ਦੀ ਸੇਵਾ ਕਰਨ। ਉਹ ਉਨ੍ਹਾਂ ਨੂੰ ਇਹ ਵੀ ਸਿਖਾਉਂਦੇ ਹਨ ਕਿ ਉਹ ਆਪਣੇ ਭੈਣ-ਭਰਾਵਾਂ ਨਾਲ ਪਿਆਰ ਅਤੇ ਸਹਿਯੋਗ ਨਾਲ ਰਹਿਣ।

ਇਸ ਤੋਂ ਇਲਾਵਾ ਉਹ ਆਪਣੇ ਬੱਚਿਆਂ ਨੂੰ ਚੰਗੇ ਸੰਸਕਾਰ ਦੇਣ ਦੀ ਕੋਸ਼ਿਸ਼ ਕਰਦੇ ਹਨ। ਉਹ ਉਨ੍ਹਾਂ ਨੂੰ ਸਿਖਾਉਂਦੇ ਹਨ ਕਿ ਉਹ ਆਪਣੇ ਬਜ਼ੁਰਗਾਂ ਦਾ ਆਦਰ ਕਰਨ ਅਤੇ ਉਨ੍ਹਾਂ ਦੀ ਸੇਵਾ ਕਰਨ। ਉਹ ਉਨ੍ਹਾਂ ਨੂੰ ਇਹ ਵੀ ਸਿਖਾਉਂਦੇ ਹਨ ਕਿ ਉਹ ਆਪਣੇ ਭੈਣ-ਭਰਾਵਾਂ ਨਾਲ ਪਿਆਰ ਅਤੇ ਸਹਿਯੋਗ ਨਾਲ ਰਹਿਣ।

By order

for Secretary

226.99 U.S.A.

4958

Kepe
8.8.99

Lr 93-97-2

1897

(2)

No. 272 of 1897-98

Name of Petitioner Venkatēja & Mors.

Village Hareyana kunte.

Taluk Bagepalli

District Kolar.

Date of Arzi 1-8-99

Date of Receipt 3-8-99.

Date of Disposal

No. of Enclosure Nil

ABSTRACT

With reference to Govt Endt No. 2166 322-6-99, they resubmit their original petn together with its enclosures, affixing Rs 4 worth Court Fee stamps to it, as required,

pray for just orders after the perusal of all the records.

8m
7/8/99.

8.8.99

Records for report.

9.8.99

10.8.99

10-8-99

Report sent.

11/8/99

11/8/99

1) In time - (the 1st petn was presented on 23/2/98 but had to be returned for rectifying the deficiency in stamps & for production of the Sht Dr Officer's judgement. The petr the Sht Dr Officer's judgement. The petr seem to have filed the copy of the Addl Dr's judgement in the 2nd appeal, the 1st municipal judgement being miscarried)

2) Stamps sufficient

3) The appeal lies as a regular suit for possession of 27 tamarind trees and a portion of Patel emoluments & for injunction for 3 years

4) Council case

Submitted
12/8/99

Report on 15/8/99
Challakere

Call proceedings
Sent
16/8/99

MYSORE UNIVERSITY PAPERS OFFICE
Date 3-8-79

ಅಭಿಲೇಖಾಲಯದ ಸಹಾಯಕ ಪ್ರಾಧ್ಯಾಪಕರು

ಸಂಸ್ಥೆಯ ಹೆಸರು ಮತ್ತು ವಿಳಾಸ

ಪ್ರಾಧ್ಯಾಪಕರ ಹೆಸರು ಮತ್ತು ವಿಳಾಸ

ಸಂಸ್ಥೆಯಲ್ಲಿ ಅಧ್ಯಾಪಕರಾಗಿ ಸೇರಿದ ದಿನಾಂಕ

ಸಂಸ್ಥೆಯಲ್ಲಿ ಅಧ್ಯಾಪಕರಾಗಿ ಸೇವೆ ಸಲ್ಲಿಸಿದ ಅವಧಿ

ಸಂಸ್ಥೆಯಲ್ಲಿ ಅಧ್ಯಾಪಕರಾಗಿ ಸೇವೆ ಸಲ್ಲಿಸಿದ ಅವಧಿಯಲ್ಲಿ ಪ್ರಾಧ್ಯಾಪಕರು ಪ್ರಕಟಿಸಿದ ಗ್ರಂಥಗಳ ಪಟ್ಟಿ

ಕಾಲಾವಧಿ ೧೯೫೦ – ೧೯೭೦

ಪ್ರಕಟಣೆಯ ಸಂಖ್ಯೆ ಮತ್ತು ಪ್ರಕಟಿಸಿದ ವರ್ಷ

ಪ್ರಬಂಧದ ಹೆಸರು ಮತ್ತು ಪ್ರಕಟಿಸಿದ ವರ್ಷ

ಕೈಪಿಡಿಗಳ ಸಂಖ್ಯೆ ಮತ್ತು ಪ್ರಕಟಿಸಿದ ವರ್ಷ

Pet 201 Pr

29/8/99

LR 73-97-2

MYSORE DEWAN'S OFFICE.

PETITION DEPARTMENT.

3

OFFICIAL MEMORANDUM.

The accompanying Appeal Petition

No. 272 dated 1.8.99

received at the Dewan's Office from

B. Venkatiya and others of Kangan

Hunte Sayeshath ~~of~~ appellants

against the ~~order~~ decree of the 2d Com~~r~~

~~in Ter Appl No 30/96-97 confirming~~

~~the decision of the Subdivision of~~

~~Chickballapur in the matter~~

~~of some land of Lem~~

~~Venkatalla V. M~~ of the said

is forwarded together with its

enclosures, to the Deputy Commissioner

of the Kolar Distr

for submission of the entire proceedin

connected with the case, together with

~~full report on the facts of the case and~~

~~the points urged in the petition.~~

2. The petition with its enclos

should be returned.

Draft

C.D.

By order,

Secretary.

BANGALORE,

26/8/1899

29/8/99

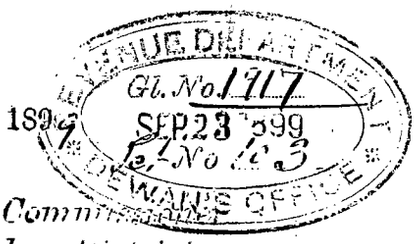
30-8-99

1 decreeing to the respondents the possession of 27 kanavus 4 guntas of Sy No 424 of the said village & ~~made~~ property for 3 years

Reps put up
KK
28/9/99

To council clerk
26/9/99

LR 73-97



1899

From,
The Deputy Commissioner
Kolar District.

To The Secretary to the Government of Mysore, Revenue and General Department.

Dated 21st September 99.

Despatched 22 do

Received

General No. 1049

No. 207

Enclosure No 5 & Receipt

4

His official memorandum No: Pet 201 dated 29/30 th August 1899 calling for records in connection with Dairy and trees on Survey No: 124 of Allaganakuntavillage Baghalli Taluk

---

Has the honor to submit herewith the entire records (as per accompanying Receipt) called for in the above.

The petition with its enclosures is herewith returned.

DL 21.9.99

for Deputy Commissioner
Kolar District.

Rec'd 23/9

LR 73-97-5

(5)

Proc of the Govt of Mysore

Appts
(1) Venkatiya
(2) Thimma
(3) Narasya

Rep/ts
(1) Venkat-narasa Reddi
(2) Subba Reddi

Revd appeal

(1) Petition no 272 / A.S.I of 1898-1900

presented by Venkatiya & 2 others of Narayanakunte Village, Gulur Hobli of the Bagepalli taluk against the decision of the D.C. Comm, the Kolar Dt decreeing to the respondents the possession of 27 Tamarind trees on Sirkar Standing and 124 of the said Villages and alleged to form a part of the Patta service Inam.

(2) Records of the Case.

Order

The Supt of Rev Survey in Mysore is requested to report when Patta settlement was introduced into the Bagepalli taluk and

Supt for appt
Supt to file Counter
by 27/3/00
13/4/00
27.3.1900

Supt to Rev C.R.E.D.
by 28/2/00
30/3/00
668

8632
OZ 8.3-99
13/6/00
13

whether in fixing the
potiya for the patel office
of Narayanakunte the
27 tamarind trees reserved
were taken into consideration
as alleged by the Petti -

Sd

27/8/02

To Supt of Rev Survey in Mysore.

Filed LR 73-97-6

MAK

12-7-00

Forward to the Supdt
a copy of the Dy Comrs
Judgment in the civil
& invite his attention
to the fact that Sno
124 is reserved by us
Talari Service Inam
Land. If so Supdt
has taken into account
in fixing pothi required
explanation MAK 12/7/00

AD 13-7-00

Dockcel-pakuka

LL
16-7-00.

(6)

REVENUE DEPARTMENT
GL No. 10
JUL 9 - 1900
Peon 3.
DEWAN'S OFFICE

1900

From The Supt Mysore
Rev Survey

To

THE SECRETARY TO THE GOVT. OF MYSORE,
Gen & Rev Depts

Dated 4th July 1900
Despatched
Received

General No. 21
No.

Enclosure No. nil

In reply to Proc No 8632 dated 4/13 June 1900
97-83-99

SUBJECT

Reporting opinion on the subject of the disposal of 2 Tamarind trees standing on Survey No 124 of the village of Inamgan Kunti Bagepalli Taluk

References
(to be entered only in the Dewan's Office)

Rec'd 10/7

Complete

No 21

Survey Superintendent's Office
Bangalore 7th July 1900.

To

The Secretary to the
Government of Mysore
Gen & Rev Depts.

Sir,

I have the honor to report as follows on Government Proceedings Ch. 5632/P.F. 83-99 dated 4th June 1900 which deal with the question of the disposal of 27 tamarind trees standing on Survey No 124 of the village of Maragana Kunte Bagepalli Taluk.

2 Survey No 124 as above

is

is partly dry and partly wet it was taken into account under Rule 1 of the Polyi Rules.

3 The question now sent to be written is, Is unmarked trees standing on the timber in question were specifically taken into consideration in fixing the Polyi. I have not been furnished with the details of the case under reference and I can only answer the question in general terms.

4. On the principle that whatever is affixed or planted in the soil becomes

subject

subject to the same rights of property as the soil itself it might be said that the 27 ornamental trees in question were taken into consideration in fixing the Price.

5. There are other considerations however which, especially as the land on which the trees stand is not classed as garden, might be held to point to a different conclusion. In Bentley it has been ruled that trees in lands held for service without proprietary right cannot be claimed as of right by the holders of the

lands

lands but Government
of course concede such rights.

6. My opinion is that if
in the present case the land
on which the trees stand
had been garden it might
fairly be said that, in so
much as the existence of the
trees would in that case have
probably influenced the rate
of assessment, the trees had
been taken into consideration
in fixing the Potgi. But
as the lands concerned
are not garden but only dry
and wet I think that if
stronger claims to the trees
than those of the holder
of the land can be shown

there

there is no reason why the decision should not be made accordingly.

I have the honor to be
Sir,
Your most obedient servant

H Lunt

Supt. Atlgore Res. Survey

LR 73-97-7

1900- (7)

From The Secretary to Govt. Genl. and Rev. Deptt.

To The Supdt. of Revenue Survey

Dated 18/6

Despatched 19 July/00.

Received

General No. 483
P.S. No. 83-99

Enclosure No. 2

His letter No. 21 dated 4th July 1900, re-porting on the subject of the disposal of the 27 tamarind trees stand-ing on S. No. 124 of Mara-gaulcunte village in the Bagepalli Tk.

In forwarding herewith a copy of the judgment of the Deputy Commissioner, Kolar dated 3.7.97, in Revenue appeal No. 3 of 1896-97, in connection with the above subject, has

has the honor to in-
-vite his attention
to the fact that S-ROA
124 is referred to therein
as Patari Service Grant
Land and to request
that he will be good
as to explain why
& by it was taken into
account in fixing the
Bolgi for the Patel's Land

By order

for Secretary

14.7.00

Lr 73-99-8 (8)

Sealed
MG
31.7.00 To be reported for
hearing
Mys 1/7/00

REVENUE DEPARTMENT
No. 723
JUL 28 1900
Dept No. 17
DEWAN'S OFFICE
1900

From The Supt. Surveys
Rr. Survey

To

THE SECRETARY TO THE GOVT. OF MYSORE,
Revenue & Ker Dept.s

Dated
Despatched 26th July 1900.
Received

General No. 70
No.

Enclosure No.

In reply to Docket No 483 of 19th inst.
F.R. 85-99

SUBJECT

Reporting that survey No 124 of Hirganhalli village Bagepalli taluk not taken into account in fixing the rates for field service. —

References
(to be entered only in the Dewan's Office)

Rev Dept No.
28.7.00
Recd 30/7

No 79

Survey Superintendent's Office
Bangalore 20 July 1900.

From

The Secretary to the
Government of Mysore
General Rev Depts.

Sir,

In reply to your letter
No. 483 P.F. 83-99 dated the 19th Instan
I have the honor to state
that Survey No 124 referred
to was not taken into ac-
-count in fixing the Peiji
for Patel service.

2. I assumed that the
land in question was Pate

Patel Iram and the point
to be decided was whether —
the trees as well as the land
were taken into account in
fixing the Patti. I now —
understand that the question
was whether the 27 tamarind
trees, as distinct from the —
land, were taken into account
in fixing the Patti, & this
I beg to reply that the 27
trees in question were not
so taken into account.

I have the honor to be
Sir,
Your most obedient Servt

[signature]
Asst Collector 1st Class

LR 13-97-9

(9)

From

The Secy to the Govt of Mysore
Jud & Rev. Depts

The Registrar of the Chief
Court of Mysore, Bangalore

5310
07837/99 17-1-190
18

(89)

I am directed to forward,
under section 226 of the Mysore
Land Revenue Code, a statement
of the question on which the Govt wish
to have the decision of the Chief
Court.

2. The papers of the
lower courts are forwarded
for reference and return.

By Order
Illegible

For Offg. Secretary

Illegible
8.1.01

Draft
BLR
13/11/00.

RD 15/1

From

The Secretary to the Govt. of Mysore,
General and Revenue Departments.

To

Dated

Despatched

Received

General No.
No.

Enclosure No.

Central Jail Press, Bangalore.—20-7-99.—602.

LR 73-97-to

Plz consolidate clerk's
Mr. Narasimha for Subs, as
this refers to a council
case

23.301

Subs

26/3

Posting this up during
the next hearing.

Hrs.
26/3/07.

Subd to the 1st court.

In the light of the opinion
given by the City court
this case has to be tried by
this Court having to the
parties to obtain redress
by means of a civil suit.

Hrs.
10/4/07.

Rec
11/4/07
189

Hrs. Order accordingly

Subd to 2nd court

25/4/1907

Hrs
26/4/07

Granting that this is a case
in which public Section

Central Jail Press, Bangalore.—13-12-05—500.

this Hon'ble Presume
Court may but also
the Civil Courts, now

(10)

(General Serial No. 34) 6283

MAR 1907

From

The Registrar of the
Chief Court of Mysore.

To

The ~~General~~ Secretary
to the Government of Mysore.

Dated 11th March 1907

Despatched 14.

Received

Enclosures No. 1 to Records

General No. 6500

No. 191

Translation of
opinion of the Court in
Referred case No. 3 of
19-2-'01.

R.L.M
20.3.07
Rec'd
22/3.

07 83 999 Contempt
case is pertaining

AR
22/3/07

N 5866 Encl: 1 LR 73-97-11
191 Records

BANGALORE.

11th March 1901.

FROM

THE REGISTRAR OF THE CHIEF COURT OF MYSORE,

TO

THE SECRETARY TO THE GOVERNMENT OF MYSORE

GENERAL AND REVENUE DEPARTMENTS.

Sir,

With reference to your letter No 5310/P.F.33-99 dated the 18th January last, I have the honor to forward herewith copy of opinion of this Court in Referred Case No 3 of 1900-1901.

The appeal Petition and the records of the Courts below are herewith returned.

I have the honor to be,

Sir,

Your most obedient servant,

Registrar.

Petn
Hours
26
27/8

Rev

In the High Court of Mysore at Bangalore

Tuesday the 11th day of March 1901

Present

The Hon'ble Justice J. M. Best, Chief Judge

The Hon'ble Justice S. Ramachandra Iyar, Comm. Judge

and

The Hon'ble C. Narahari Rao, Judge

Referred Case No: 3 of 1900-1901

from the Secretary to the Government

of Mysore in Revenue Appeal No: 1 of

1897-1900.

C. Venkatiya and 2 others — Appellants (Defts)

Venkatanarasaraddi and another — Respondents (Plffs)

This case coming on for hearing

on Saturday the 9th day of March 1901,

the Court pronounced the following

Opinion

Mr. Justice S. Ramachandra Iyar:— The

Plaintiffs instituted a suit in the Court

of the Sub Division Officer — of

Chikballapur

Chirkkatiallapur to establish their right to and recover possession of certain tamarind trees, urging that the trees formed their service Inam. The Sub Division Officer decreed the claim and the decision was upheld by the Deputy Commissioner. The defendants made a second appeal to Government. The question referred by the Government is "whether the Revenue Courts only had jurisdiction in such cases to the exclusion of the Civil Courts."

The Plaintiffs had filed a suit in the Munsiff's Court of Chirkkatiallapur for possession of the trees which are now in dispute (C.S. No. 755 of 1883). The suit was eventually dismissed by the Chief Court upon the ground that the Munsiff had no jurisdiction to entertain it.

When the Plaintiffs filed the suit in the Munsiff's Court, the law which

governed

governed the case was a notification of the Commissioner of Mysore dated 9th September 1835. This was repeated in the notification which was issued by the Commissioner of Mysore on 8th June 1864, and by it the procedure of the Revenue Courts was regulated until April 1899 when the Mysore Land Revenue Code came into force. The notification was repealed by the Code (vide schedule A, clause 6). Since April 1899 the question of jurisdiction of Civil and Revenue Courts is governed by section 221 of the Code.

Clause (a) of the section debars a Civil Court from exercising jurisdiction as to any claims against Government relating to any property appertaining to the office of any village office or servant. A claim made against a private individual in regard

regard to them said may I think be adjudicated by a Civil Court.

The Chief Justice:— I concur in the opinion that section 221 of the Land Revenue Code (which I believe contains the whole law on the subject) does not debar the Civil Courts from entertaining suits on such claims.

Mr. Justice S. Sarkari Ram:— I am also of the same opinion. Section 221 of the Gazetteer Land Revenue Code specifies the classes of suits in respect of which jurisdiction is taken away from the ordinary Civil Tribunals and conferred upon the Revenue Courts. The claim now in question not falling within any of the said classes and appearing to come in the class specified in clause (b) of section 222 of the Code, the Civil Courts have jurisdiction to entertain and decide it.

A true copy

Registrar.

Law

Before the Govt. of Mysore.

Present.

V. P. Madhava Rao Esqre. B.A.
and
C. Srinivasaraghavaiyangar Esqre.

Appeal No. 1 of 1899-1900

Appellants (Defendants)	~~Ref~~	Respondents (Plaintiffs)
1. B. Venkatiga		1. Venkatramana Reddi
2. Thimma		2. Subba Reddi
3. Narasiga		

Subject

Appeal against the decree ~~order~~ of the Deputy Commissioner of Kolar ~~in~~ allowing the plaintiffs' claim, ~~as regards~~ ~~claim~~ to 27 tamarind trees standing on Survey No. 124 of Marsur Kunte, Bagepalli Taluk and

for profits out of their produce for 3 years.

The facts of the case are:-

The Respondents are the patels and the Appellants the talaries of the Village of Margaon-Kunte. In 1883 the former filed a suit in the Munsiff's Court at Chikhallapur to estab-lish their claim to and recover possession of 27 tamarind trees standing on Survey No 124 of Margaonkunte (the Appellants' Service Inam lands) and for mesne profits. ~~out of their pro-duce~~ - The Munsiff decreed in their favor. On Appeal the Chief Court dismissed the suit for want of jurisdiction

in the Civil Courts to entertain such suits.

2. The Respondents then petitioned the Deputy Commissioner and were told in 1895 to establish their claim by a regular Revenue suit. In 1896 they obtained a decree in their favour ~~in the Civil Division Officer and Civil Appeal~~ which also confirmed by the Deputy Commissioner on appeal ~~by the Civil Court.~~

Hence this second Appeal to Government.

Mayne & Mayne Advocates in the Court of the Sub Div. Officer, Chikballapur and Respondents

The case was heard on the 26th Oct 1900 ~~during~~ the question whether the ~~Civil~~ Revenue Courts had jurisdiction in such cases to the exclusion of the Civil

Court to ~~make~~ decide the matter was referred to the Chief Court for opinion under Sec 226 of the L.R. Act

The ~~Judges of~~ Chief Court ~~concurred~~ has recorded the opinion ~~found~~ that the Civil Courts are not debarred from entertaining such suits.

Decision. P.C. 83-99 S 1/3

Govt. consider the Revenue Courts have jurisdiction in this case. As regards the facts the findings have all along been in favor of the Patels plaintiff-Respondents. Govt agree in the findings and dismiss this appeal.

No.

Copy forwarded to

the Deputy Commissioner, Kolar together with the records received with his l.o. 1049/207 dated 21st September 1899.

Secy to Govt.
Genl & Rev Dept

To
The Deputy Commissioner
Kolar Dist

Put up. Examt
28/6/01.

Asst Secy
28/6/01.

LR 73-97-12

Revenue Dept (11) Dated 1.7.1901
2166-6.

[illegible]

[illegible]

[illegible]

LR B-97-13

1901

No. 750

Name of Petitioner L. Shivmaga Venkatega and S. Rama

Village

Taluk Bagepalli

District Kolar

Date of Arzi 21-8-01

Date of Receipt 2-9-01

Date of Disposal

No. of Enclosure Nil

ABSTRACT

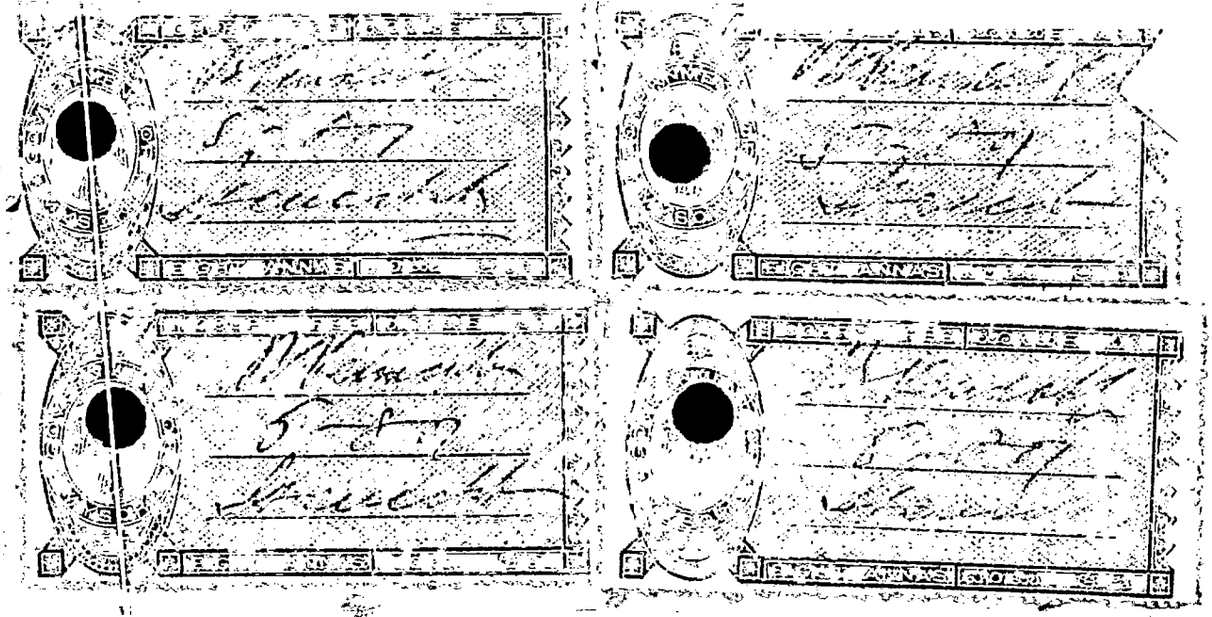
Application for review of Govt order rejecting their appeal against the Dy Com's order relating to S. No. 124 of Marganakunte village Bagepalli Taluk attached to Talari Service

Petrs state that the 29 tamarind trees on their Talavar Inam land S. No. 124 were fraudulently entered by the Shanbhag and Patel in the Siddhanti Chitta and Survey record

M&CPE—28-8-01—3,000.

as being in the enjoyment
of the palelo; that on their
petn to Survey Deptt to
a
rectify the entry, they were
given out that others
had no right to the trees
standing on the pelis' Inam
there is no entry in
land; that the Inam Settle
ment record to show that
the palels had any right
to the trees; that the land
measures 7 acres and the
trees occupy the whole
extent and that the land by
itself is not fit for culti-
vation on that account;
that it would be a hard
ship on the petrs if the
land alone trees on the land
in question is are not
restored to them as
they derive no benefit
out of the land given to
them as Service Inam
without the trees.

11.9.01



To
By post Cover
Issued
450

Two Rupees Stamp affixed
29-9-01

His Excellency
The Dewan
Mysore

29-9-07

May it please your Excellency

The humble petition of the under signed L. Timmaya, S. Ramaya, B. Venkatya and others district petitioners Sailary inam land Serrey No. 124 at Nagarganivita of the Bagepalli Taluk 29 tamarind trees standing on khatta during the time of the Serrey Settlement these trees were fraudulently entered by the Shanbogue and the Patels in the Sidary Chitta and Serrey records as in the possession and enjoyment of the Patels, and the humble petitioners were never informed of the fact.

Later on the petitioners learned that these trees standing on their service inam land were entered in the Serrey Settlement records as in the possession and enjoyment of the Patels and petitioned the Serrey Department to correct the entries, but the petitioners were informed by an endorsement that other persons have no right to trees standing on their service inam land

Even in the inam Settlement records no mention is made of the Patels as having any regard to the enjoyment of these trees.

The petitioner moved the subject before the Sub Division Officer Chick Ballapur who after

der enquiry decided the case in favour
of the Patels, though the issue that was raised
namely the question as to the proprietary of
the fact that the trees should be enjoyed
the Patels, though the land on which they stand
is the service inam in the possession and enjoyment
of the petitioners' ancestors, remained undecided

Appeals were presented to the Deputy Commissioner
Kolar and to the Honorable the Councillors who have
both upheld the decision of the Sub Division officer

The petitioners humbly beg to represent to your
Excellency that the land on which these trees stand is
the Talary Service inam land, but by the grant of the
Shanbogh and Patel the trees have been entered in
the Siddasiy Chitta and Survey records as in the
possession and enjoyment of the Patales.

The land measures about 7 acres and the number
of trees occupying the whole extent of it is 29.

As it is equitable and just your Excellency
is humbly requested to consider that the land should
be the Service inam land of the petitioners, but the
trees — the produce should be of the Patels.

The land itself is not fit to be cultivated
on account of the trees occupying the whole extent.

If the trees should belong to the Patales then what
is meaning by saying that the petitioners are given inam
lands — nominally — for their hard service if they
cannot enjoy the land.

Under these circumstances the petitioner pray that
your Excellency will be pleased to call for the records
and do justice to the petitioners.

As no justice has been done in the Amildar Court
we have humbly presented their petition for your
Excellencies benign consideration and favourable orders

For which act of kindness we the humbly peti-
-tioners pray the Almighty for your long Excellencies
long life and prosperity.

We beg to remain may it please your Excellency
Your most obedient humble Servents. 21/8/1901

750

LR 73-97-14